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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,089	09/10/2003	Anthony S. Salemi	MEG-P-03-001	2725
29013	7590	05/30/2007		
PATENTS+TMS, P.C. 2849 W. ARMITAGE AVE. CHICAGO, IL 60647			EXAMINER CORDRAY, DENNIS R	
			ART UNIT 1731	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/659,089

**Applicant(s)**

SALEMI ET AL.

**Examiner**

Dennis Cordray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of the subject matter of previous Claims 15-19 and 22 is withdrawn in view of newly discovered references, Santelli (US 2004/0071902) and Trogolo et al (6248342). The newly presented claims, which incorporate the above subject matter, are rejected based on the references cited above.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santelli (US 2004/0071902) in view of Trogolo et al (6248342).

Santelli discloses a process for making a biocide containing laminate comprising:

- providing a plastic film having first and second sides,
- treating the first side of the film with a corona discharge (scoring) to make it receptive to adhesives,
- laminating (connecting) a paper sheet to the plastic film,
- associating a biocide (bactericide, fungicide, pesticide, moldicide, mildicide, viricide) with the laminate (p 2, par 19; p 3, pars 28 and 30).

The Examiner considers the recited biocides to be antimicrobials. The plastic film, which is a water resistant layer, can be polyethylene (p 3, par 29; p 5, pars 52 and 53). Additional paper and plastic layers can be applied to the other side of the plastic film to form laminates having multiple plastic and paper layers. Laminates of plastic-paper-

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plastic, plastic-paper-plastic-paper-plastic, paper-plastic-plastic, paper-plastic-plastic - paper, paper-plastic-paper-plastic are specifically recited (p 2, par 21; p 3, par 34; p 4, par 42; p 5, pars 50 and 54). The biocide can be applied in a variety of ways depending on the form of the laminate (p 3, par 27). When multiple layer laminates are made, multiple biocide applications can be made to the paper layers or the adhesives (p 5, par 50). The laminate is made as a sheeting material, which the Examiner construes as being substantially flat and forming a plane, and can further be made into a pouch, envelope or container, wrapped around an article, or made into a tape for sealing a carton (p 5, pars 47-49, 51 and 53).

In the embodiments disclosed by Santelli, the outermost layer on one face of the laminate can be called the "sheet having a first side and a second side" of the instant claims and the one or more plastic layers are the water resistant layers. The paper layers or adhesive layers between the plies can contain biocidal material. Thus, in a multilayer laminate, one or more water resistant layers and a paper layer can be located between the "sheet having a first side and a second side" and an antimicrobial layer.

While the order of assembly of the laminates of Santelli differs from the claimed process, no evidence has been provided to demonstrate that the sequence of laminating the layers is critical to the instant invention and performing the laminating steps in any sequence would have been obvious to one of ordinary skill in the art in the absence of new or unexpected results. Ex parte Rubin , 128 USPQ 440 (Bd. App. 1959) (Prior art reference disclosing a process of making a laminated sheet wherein a base sheet is first coated with a metallic film and thereafter impregnated with a

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thermosetting material was held to render prima facie obvious claims directed to a process of making a laminated sheet by reversing the order of the prior art process steps.). See also *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946) (selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results).

Santelli does not disclose an antimicrobial layer of polyethylene containing silver zeolite.

Trogolo et al discloses that an antibiotic low density polyethylene having 20 wt.% silver containing zeolite is commercially available (col 6, lines 47-65).

Santelli, Trogolo et al and the instant invention and the instant invention is analogous as pertaining to treating laminates to impart antibiotic or antimicrobial properties thereto. It would have been obvious to one of ordinary skill in the art to apply a layer of a commercially available polyethylene containing silver zeolite as an antimicrobial layer in the laminate of Santelli in view of Trogolo et al as a functionally equivalent option. Alternatively, it would have been obvious to use a commercially available polyethylene containing silver zeolite to form one or more of the plastic water resistant layers.

### ***Conclusion***

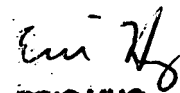
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Cordray whose telephone number is 571-272-8244. The examiner can normally be reached on M - F, 7:30 -4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DRC

  
**ERIC HUG**  
**PRIMARY EXAMINER**